

BLACK CANYON OF THE GUNNISON NATIONAL PARK AND  
GUNNISON GORGE NATIONAL CONSERVATION AREA ACT  
OF 1999

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SEPTEMBER 8, 1999.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 323]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 323) to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) Black Canyon of the Gunnison National Monument was established for the preservation of its spectacular gorges and additional features of scenic, scientific, and educational interest;

(2) the Black Canyon of the Gunnison and adjacent upland include a variety of unique ecological, geological, scenic, historical, and wildlife components enhanced by the serenity and rural western setting of the area;

(3) the Black Canyon of the Gunnison and adjacent land provide extensive opportunities for educational and recreational activities, and are publicly used for hiking, camping, and fishing, and for wilderness value, including solitude;

(4) adjacent public land downstream of the Black Canyon of the Gunnison National Monument has wilderness value and offers unique geological, paleontological, scientific, educational, and recreational resources;

(5) public land adjacent to the Black Canyon of the Gunnison National Monument contributes to the protection of the wildlife, viewshed, and scenic qualities of the Black Canyon;

(6) some private land adjacent to the Black Canyon of the Gunnison National Monument has exceptional natural and scenic value that would be threatened by future development pressures;

(7) the benefits of designating public and private land surrounding the national monument as a national park include greater long-term protection of the resources and expanded visitor use opportunities; and

(8) land in and adjacent to the Black Canyon of the Gunnison Gorge is—

(A) recognized for offering exceptional multiple use opportunities;

(B) recognized for offering natural, cultural, scenic, wilderness, and recreational resources; and

(C) worthy of additional protection as a national conservation area, and with respect to the Gunnison Gorge itself, as a component of the national wilderness system.

### SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres surrounding the Gunnison Gorge as depicted on the Map.

(2) MAP.—The term “Map” means the map entitled “Black Canyon of the Gunnison National Park and Gunnison Gorge NCA—1/22/99”. The map shall be on file and available for public inspection in the offices of the Department of the Interior.

(3) PARK.—The term “Park” means the Black Canyon of the Gunnison National Park established under section 4 and depicted on the Map.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

### SEC. 4. ESTABLISHMENT OF BLACK CANYON OF THE GUNNISON NATIONAL PARK.

(a) ESTABLISHMENT.—There is hereby established the Black Canyon of the Gunnison National Park in the State of Colorado as generally depicted on the map identified in section 3. The Black Canyon of the Gunnison National Monument is hereby abolished as such, the lands and interests therein are incorporated within and made part of the new Black Canyon of the Gunnison National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

(b) ADMINISTRATION.—Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management which are identified on the map for inclusion in the park to the administrative jurisdiction of the National Park Service. The Secretary shall administer the park in accordance with this Act and laws generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1, 2–4), and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes, approved August 21, 1935 (16 U.S.C. 461 et seq.).

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

(e) GRAZING.—(1)(A) Consistent with the requirements of this subsection, including the limitation in paragraph (3), the Secretary shall allow the grazing of livestock

within the park to continue where authorized under permits or leases in existence as of the date of enactment of this Act. Grazing shall be at no more than the current level, and subject to applicable laws and National Park Service regulations.

(B) Nothing in this subsection shall be construed as extending grazing privileges for any party or their assignee in any area of the park where, prior to the date of enactment of this Act, such use was scheduled to expire according to the terms of a settlement by the U.S. Claims Court affecting property incorporated into the boundary of the Black Canyon of the Gunnison National Monument.

(C) Nothing in this subsection shall prohibit the Secretary from accepting the voluntary termination of leases or permits for grazing within the park.

(2) Within areas of the park designated as wilderness, the grazing of livestock, where authorized under permits in existence as of the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, consistent with this Act, the Wilderness Act, and other applicable laws and National Park Service regulations.

(3) With respect to the grazing permits and leases referenced in this subsection, the Secretary shall allow grazing to continue, subject to periodic renewal—

(A) with respect to a permit or lease issued to an individual, for the lifetime of the individual who was the holder of the permit or lease on the date of the enactment of this Act; and

(B) with respect to a permit or lease issued to a partnership, corporation, or other legal entity, for a period which shall terminate on the same date that the last permit or lease held under subparagraph (A) terminates, unless the partnership, corporation, or legal entity dissolves or terminates before such time, in which case the permit or lease shall terminate with the partnership, corporation, or legal entity.

#### **SEC. 5. ACQUISITION OF PROPERTY AND MINOR BOUNDARY ADJUSTMENTS.**

##### **(a) ADDITIONAL ACQUISITIONS.—**

(1) **IN GENERAL.**—The Secretary may acquire land or interests in land depicted on the Map as proposed additions.

##### **(2) METHOD OF ACQUISITION.—**

(A) **IN GENERAL.**—Land or interests in land may be acquired by—

- (i) donation;
- (ii) transfer;
- (iii) purchase with donated or appropriated funds; or
- (iv) exchange.

(B) **CONSENT.**—No land or interest in land may be acquired without the consent of the owner of the land.

##### **(b) BOUNDARY REVISION.**—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly-acquired land within the boundary; and

(2) administer newly-acquired land subject to applicable laws (including regulations).

(c) **BOUNDARY SURVEY.**—As soon as practicable and subject to the availability of funds the Secretary shall complete an official boundary survey of the Park.

##### **(d) HUNTING ON PRIVATELY OWNED LANDS.—**

(1) **IN GENERAL.**—The Secretary may permit hunting on privately owned land added to the Park under this Act, subject to limitations, conditions, or regulations that may be prescribed by the Secretary.

(2) **TERMINATION OF AUTHORITY.**—On the date that the Secretary acquires fee ownership of any privately owned land added to the Park under this Act, the authority under paragraph (1) shall terminate with respect to the privately owned land acquired.

#### **SEC. 6. EXPANSION OF THE BLACK CANYON OF THE GUNNISON WILDERNESS.**

(a) **EXPANSION OF BLACK CANYON OF THE GUNNISON WILDERNESS.**—The Black Canyon of the Gunnison Wilderness, as established by subsection (b) of the first section of Public Law 94–567 (90 Stat. 2692), is expanded to include the parcel of land depicted on the Map as “Tract A” and consisting of approximately 4,419 acres.

(b) **ADMINISTRATION.**—The Black Canyon of the Gunnison Wilderness shall be administered as a component of the Park.

#### **SEC. 7. ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.**

(a) **IN GENERAL.**—There is established the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres as generally depicted on the Map.

(b) **MANAGEMENT OF CONSERVATION AREA.**—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area to protect the resources of the Conservation Area in accordance with—

- (1) this Act;
- (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (3) other applicable provisions of law.
- (c) **WITHDRAWAL.**—Subject to valid existing rights, all Federal lands within the Conservation Area are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.
- (d) **HUNTING, TRAPPING AND FISHING.**—
  - (1) **IN GENERAL.**—The Secretary shall permit hunting, trapping, and fishing within the Conservation Area in accordance with applicable laws (including regulations) of the United States and the State of Colorado.
  - (2) **EXCEPTION.**—The Secretary, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons concerning—
    - (A) public safety;
    - (B) administration; or
    - (C) public use and enjoyment.
- (e) **USE OF MOTORIZED VEHICLES.**—In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the Conservation Area shall be allowed—
  - (1) to the extent the use is compatible with off-highway vehicle designations as described in the management plan in effect on the date of enactment of this Act; or
  - (2) to the extent the use is practicable under a management plan prepared under this Act.
- (f) **CONSERVATION AREA MANAGEMENT PLAN.**—
  - (1) **IN GENERAL.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall—
    - (A) develop a comprehensive plan for the long-range protection and management of the Conservation Area; and
    - (B) transmit the plan to—
      - (i) the Committee on Energy and Natural Resources of the Senate; and
      - (ii) the Committee on Resources of the House of Representatives.
  - (2) **CONTENTS OF PLAN.**—The plan—
    - (A) shall describe the appropriate uses and management of the Conservation Area in accordance with this Act;
    - (B) may incorporate appropriate decisions contained in any management or activity plan for the area completed prior to the date of enactment of this Act;
    - (C) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Conservation Area prior to the date of enactment of this Act;
    - (D) shall be prepared in close consultation with appropriate Federal, State, county, and local agencies; and
    - (E) may use information developed prior to the date of enactment of this Act in studies of the land within or adjacent to the Conservation Area.
- (g) **BOUNDARY REVISIONS.**—The Secretary may make revisions to the boundary of the Conservation Area following acquisition of land necessary to accomplish the purposes for which the Conservation Area was designated.

**SEC. 8. DESIGNATION OF WILDERNESS WITHIN THE CONSERVATION AREA.**

- (a) **GUNNISON GORGE WILDERNESS.**—
  - (1) **IN GENERAL.**—Within the Conservation Area, there is designated as wilderness, and as a component of the National Wilderness Preservation System, the Gunnison Gorge Wilderness, consisting of approximately 17,700 acres, as generally depicted on the Map.
  - (2) **ADMINISTRATION.**—
    - (A) **WILDERNESS STUDY AREA EXEMPTION.**—The approximately 300-acre portion of the wilderness study area depicted on the Map for release from section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall not be subject to section 603(c) of that Act.
    - (B) **INCORPORATION INTO NATIONAL CONSERVATION AREA.**—The portion of the wilderness study area described in subparagraph (A) shall be incorporated into the Conservation Area.

(b) **ADMINISTRATION.**—Subject to valid rights in existence on the date of enactment of this Act, the wilderness areas designated under this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) **STATE RESPONSIBILITY.**—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act or in the Wilderness Act shall affect the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish on the public land located in that State.

(d) **MAPS AND LEGAL DESCRIPTIONS.**—As soon as practicable after the date of enactment of this section, the Secretary of the Interior shall file a map and a legal description of the Gunnison Gorge Wilderness with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. This map and description shall have the same force and effect as if included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description. The map and legal description shall be on file and available in the office of the Director of the BLM.

#### **SEC. 9. WITHDRAWAL.**

Subject to valid existing rights, the Federal lands identified on the Map as “BLM Withdrawal (Tract B)” (comprising approximately 1,154 acres) are hereby withdrawn from all forms of entry, appropriation or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

#### **SEC. 10. WATER RIGHTS.**

(a) **EFFECT ON WATER RIGHTS.**—Nothing in this Act shall—

- (1) constitute an express or implied reservation of water for any purpose; or
- (2) affect any water rights in existence prior to the date of enactment of this Act, including any water rights held by the United States.

(b) **ADDITIONAL WATER RIGHTS.**—Any new water right that the Secretary determines is necessary for the purposes of this Act shall be established in accordance with the procedural and substantive requirements of the laws of the State of Colorado.

#### **SEC. 11. STUDY OF LANDS WITHIN AND ADJACENT TO CURECANTI NATIONAL RECREATION AREA.**

(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary, acting through the Director of the National Park Service, shall conduct a study concerning land protection and open space within and adjacent to the area administered as the Curecanti National Recreation Area.

(b) **PURPOSE OF STUDY.**—The study required to be completed under subsection (a) shall—

- (1) assess the natural, cultural, recreational and scenic resource value and character of the land within and surrounding the Curecanti National Recreation Area (including open vistas, wildlife habitat, and other public benefits);
- (2) identify practicable alternatives that protect the resource value and character of the land within and surrounding the Curecanti National Recreation Area;
- (3) recommend a variety of economically feasible and viable tools to achieve the purposes described in paragraphs (1) and (2); and
- (4) estimate the costs of implementing the approaches recommended by the study.

(c) **SUBMISSION OF REPORT.**—Not later than 3 years from the date of enactment of this Act, the Secretary shall submit a report to Congress that—

- (1) contains the findings of the study required by subsection (a);
- (2) makes recommendations to Congress with respect to the findings of the study required by subsection (a); and
- (3) makes recommendations to Congress regarding action that may be taken with respect to the land described in the report.

(d) **ACQUISITION OF ADDITIONAL LAND AND INTERESTS IN LAND.**—

- (1) **IN GENERAL.**—Prior to the completion of the study required by subsection (a), the Secretary may acquire certain private land or interests in land as depicted on the Map entitled ‘Proposed Additions to the Curecanti National Recreation Area,’ dated 01/25/99, totaling approximately 1,065 acres and entitled ‘Hall and Fitti properties’.

## (2) METHOD OF ACQUISITION.—

(A) IN GENERAL.—Land or an interest in land under paragraph (1) may be acquired by—

- (i) donation;
- (ii) purchase with donated or appropriated funds; or
- (iii) exchange.

(B) CONSENT.—No land or interest in land may be acquired without the consent of the owner of the land.

(C) BOUNDARY REVISIONS FOLLOWING ACQUISITION.—Following the acquisition of land under paragraph (1), the Secretary shall—

- (i) revise the boundary of the Curecanti National Recreation Area to include newly-acquired land; and
- (ii) administer newly-acquired land according to applicable laws (including regulations).

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**PURPOSE OF THE BILL**

The purpose of S. 323 is to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes.

**BACKGROUND AND NEED FOR LEGISLATION**

S. 323 redesignates the Black Canyon of the Gunnison National Monument as a new national park unit, which will be known as the Black Canyon of the Gunnison National Park. This bill also expands Black Canyon of the Gunnison Wilderness Area within the new park unit by approximately 4400 acres and directs the National Park Service to conduct a study concerning land protection and open space within and adjacent to the Curecanti National Recreation Area. Most of the land designations are incorporations of the land and interests within the current boundary of the Black Canyon of the Gunnison National Monument established by Public Law 98–357 in 1984. The new park unit will also be comprised of other lands currently administered by the Bureau of Land Management which will transfer the identified additional lands to the National Park Service. The Secretary of the Interior, acting through the director of the National Park Service, may permit grazing where that use exists as of the day of enactment and shall prepare a grazing management plan to administer grazing activities within the park. Furthermore, hunting on privately-owned land within the boundaries of park may be permitted. The Secretary may acquire lands or interests in lands by donation, transfer, purchase with donated or appropriated funds, or exchange, but no land or interests in land may be acquired without the consent of the owner of the land. Not later than five years after the date of enactment of this bill, the Secretary shall complete an official boundary survey of the park.

The bill also establishes the Gunnison Gorge National Conservation Area (approximately 57,725 acres) and designates a new wilderness area within the newly established National Conservation Area, the Gunnison Gorge Wilderness (approximately 17,700 acres). These areas will be administered by the Bureau of Land Management. Subject to valid existing rights, federal land and interests within the conservation area acquired by the United States will be

withdrawn from entry, appropriation, or disposal under public land laws; location, entry, and patent under the mining laws; and operation of mineral leasing and geothermal laws. The Secretary, however, can permit hunting, trapping, fishing, and the use of motorized vehicles within the conservation area. Within four years after the date of enactment of this bill, the Secretary shall develop a comprehensive protection and management plan for the conservation area and submit it to Congress.

During Full Committee consideration of S. 323 an amendment was offered by Congressman Mark Udall (D-CO) who had concerns over water rights as stated in section 10 of the bill. The Committee wishes to clarify the intent of the bill and address these concerns. Subsection 10(a)(1) provides that nothing in the bill shall “constitute an express or implied reservation of water for any purpose”. Subsection 10(a)(2) provides that the bill will not affect the water rights held or claimed by the United States with respect to the Black Canyon of the Gunnison National Monument as of the date of the bill’s enactment. This subsection is intended to assure that the existing water rights of the United States, conditional or absolute, and claims therefor, are preserved unimpaired. It is the Committee’s intent and expectation that this legislation will neither expand nor diminish the water rights held by the United States for the benefit of the monument and, upon enactment of this legislation, the national park. The water rights and claims held by the United States will retain both their priority date and purposes.

The Committee also notes that subsection 10(b) provides that any new federal water rights that the Secretary of the Interior determines to be necessary for the purposes of the bill shall be established in accordance with the procedural and substantive requirements of Colorado law. In this respect, the Committee has taken into consideration that, in 1971, the United States filed applications for water rights for the Black Canyon of the Gunnison National Monument as part of a general stream adjudication. The United States has not yet submitted, and no court has entered, a final decree on this adjudication. Thus, the United States’ water rights on the Gunnison River for the Black Canyon of the Gunnison National Monument often are referred to as “conditional” rights.

The Committee also acknowledges that the purpose of the Black Canyon of the Gunnison National Monument is to conserve and maintain the scenic, aesthetic, natural, and historic objects of the monument, as well as its wildlife, in order that the monument might provide a source of recreation and enjoyment for all generations of citizens of the United States. Within this context the purpose permits the utilization of water under the reservation doctrine in the form of direct flow and storage rights, transportation rights, and well rights. Further, the water utilization includes recreational and developmental uses, conservation, management of wildlife and habitat, wilderness preservation (where designated), minimum stream flows (for the Gunnison River), along with scenic, aesthetic, and other public values. It is the Committee’s view that because these rights were established for the benefit of the national monument, and because this legislation transfers these and other interests, unimpaired, to the newly established Black Canyon National Park, no reserved right is necessary to protect the water-related

values of the newly established national park, conservation area, or wilderness designations.

#### COMMITTEE ACTION

S. 323 was introduced on January 28, 1999, by Senator Ben Nighthorse Campbell (R-CO). Companion legislation, H.R. 1165, was introduced in the House of Representatives by Congressman Scott McInnis (R-CO). The Senate passed S. 323 on July 1, 1999, and the bill was referred to the Committee on Resources. On July 21, 1999 the Full Resources Committee met to consider S. 323. Congressman James V. Hansen (R-UT) offered an amendment which addressed grazing permits issued to corporations within the new park unit. The amendment was adopted by voice vote. Commissioner Carlos Romero-Barcelo (D-PR) offered an amendment dealing with off-road vehicles which failed by voice vote. Congressman Mark Udall (D-CO) offered two amendments the first of which, dealing with a condemnation provision, was ruled out of order on germaneness. The second Udall amendment, dealing with water rights, was offered and then withdrawn by Congressman Udall. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and



section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 23, 1999.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 323, the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 323—Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999*

Summary: Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 323 would cost the federal government \$5.5 million over the next five years. The act would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 323 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local or tribal governments.

Description of the bill's major provisions: S. 323 would redesignate the Black Canyon of the Gunnison National Monument in Colorado as the Black Canyon of the Gunnison National Park. The act would direct the Secretary of the Interior to transfer jurisdiction over about 7,000 acres adjacent to the existing national monument from the Bureau of Land Management (BLM) to the National Park Service (NPS) for incorporation into the new park. Subject to existing rights, all federal acreage within the park, including that transferred from the BLM, would be withdrawn from entry, appropriation, and disposal under public land and mining laws, and thus could not be sold, leased, or otherwise used for commercial purposes. (Grazing within the park, however, would continue until existing permits expire.)

Section 5 of the act would authorize the NPS to acquire up to approximately 2,500 additional acres for the park by donation, purchase, transfer, or exchange. The NPS would revise the boundaries of the park once it acquires such lands and would conduct an official boundary survey of the park as soon as possible thereafter. Section 6 would expand the Black Canyon of the Gunnison Wilderness to include an additional 4,419 acres of land. This section also would direct the NPS to administer the Black Canyon of the Gunnison Wilderness as a component of the park.

S. 323 also would establish the Gunnison Gorge National Conservation Area (NCA). Section 7 would direct the BLM to administer the 57,725-acre NCA in accordance with this act, the Federal Land Policy and Management Act of 1976, and other applicable laws. Lands within the NCA would be withdrawn from entry, appropriation, and disposal under public land and mining laws. This section would require the BLM to develop a comprehensive plan for protection and management of the NCA. If the agency acquires land for the NCA (as it may under existing authority), it would revise the area's boundaries accordingly. Also, section 8 would designate about 17,700 acres of land within the NCA as the Gunnison Gorge Wilderness. Section 9 also would protect other BLM lands outside of the NCA by withdrawing them under public land and mining laws.

Section 11 would require the NPS to conduct a study of the areas adjacent to the Curecanti National Recreation Area (NRA) in order to assess resources and identify alternatives to protect them. This section would permit the NPS to acquire two tracts of land for inclusion in the NRA before the land protection study is completed.

Finally, section 12 would authorize the appropriation of whatever amounts are necessary to implement the legislation.

Estimated cost to the Federal Government: CBO estimates that the NPS and the BLM would spend a total of about \$1 million to complete the studies and plans required by S. 323 over the next three or four years. In addition, we estimate that the NPS would spend about \$3 million to acquire land at Black Canyon and Curecanti. (BLM may also acquire land for the NCA, but the agency already has authority to acquire property in this area under other statutes.) CBO estimates that the cost of developing property acquired at the two park units would not exceed \$1.5 million in total. We estimate that additional annual expenses to operate the NCA and the two park units once the act has been implemented would not be significant. All estimates are based on information provided by the NPS and the BLM. For purposes of these estimates, CBO assumes that the necessary amounts would be appropriated as required.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 323 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Previous CBO estimate: On June 4, 1999, CBO prepared a cost estimate for S. 323 as ordered reported by the Senate Committee on Energy and Natural Resources. The two versions of the legislation are very similar, and the two estimates are identical.

Estimate prepared by: Deborah Reis.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt State, local, or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

## ADDITIONAL VIEWS

S. 323 is important legislation, the basic intent of which we fully support. This measure will abolish the Black Canyon of the Gunnison National Monument and create in its place a larger national park. In addition, the legislation will create a 57,000-acre national conservation area (NCA), more than 17,000 acres of which will be designated wilderness. The Monument's redesignation and expansion, as well as the designation of the NCA and wilderness, will better protect the natural and cultural resources which make this area unique.

Importantly, this legislation includes a provision allowing grazing within the new park boundaries to continue only during the lifetime of the current grazing lease-holders. This "sunset" language is an equitable solution to what might have been a contentious problem created by the transfer of land from the Bureau of Land Management (BLM) to the National Park Service.

However, one aspect of S. 323 continues to raise serious concerns and it is our hope that this remaining issue will be resolved during consideration of this legislation in the full House. A large portion of the BLM lands to be included in the new NCA are currently designated for use by off-road vehicles (ORVs). This area is managed according to an existing management plan, and section 7(e)(1) of this legislation specifies that this area will continue to be available for ORV use after these lands are designated as part of the NCA. While ORV use within an area set aside to conserve natural and cultural resources is problematic, the BLM assures us that this ORV use can continue to be managed in such a way as to be compatible with the goals of the new NCA.

However, section 7(e)(2) of the bill goes on to contemplate *expansion* of ORV use into any area where such use is deemed "practicable" under the new management plan. Given that the existing level of ORV use is not ideal, expansion of such use is ill-advised and will undermine the very resources S. 323 seeks to protect. In no other NCA in the country are off-road vehicles allowed to rumble over any area where their use is deemed "practicable."

S. 323 should be amended to make clear that, because the lands will now be part of a national conservation area, the use of off-road-vehicles will not be expanded beyond existing limits.

GEORGE MILLER.  
CARLOS ROMERO-BARCELO.  
BRUCE VENTO.  
RUSH HOLT.  
MARK UDALL.